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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,984	12/03/2001	Didier Gloaguen	214711	9238

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EXAMINER

PICKARD, ALISON K

ART UNIT PAPER NUMBER

3676

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/004,984

Applicant(s)

GLOAGUEN, DIDIER

Examiner

Alison K. Pickard

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,10-13 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21-23 is/are allowed.
- 6) ☒ Claim(s) 1,3-7,10-13 and 15-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152:

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 3-7, 10-13, and 15-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 contains the trademark/trade name TEFLON. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a material (i.e. PTFE) and, accordingly, the identification/description is indefinite.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3676

4. Claims 1, 3-7, 10, 11, 13, 15, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colletti (3,927,576) in view of Pierce (6,006,651).

Colletti discloses a protective cover arrangement secured to both ends of a joint or steering arrangement in a vehicle. The cover comprises an elastomeric (col. 1, line 60) bellows 23 secured at each end with a collar 32 and 33 and defining an interior space 36. A vent means 28 is coupled to the space and includes an element 29 that allows airflow there across but prevents contaminants and/or water from entering the space (col. 1, lines 45-50). The pressure in the space is maintained at atmospheric pressure. The vent means prevents lubricant from escaping. The element 29 is made of a porosity-calibrated material. However, Colletti does not disclose that the material for the vent element is Teflon. Pierce teaches a protective cover having a vent means with a vent element 306. Pierce teaches a vent element that allows airflow there across while preventing contaminants or water from entering the housing (see col. 6, lines 1-26). Pierce teaches making the vent element from a porosity calibrated Teflon material to provide hydrophobic and oleophobic properties. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the vent element of Colletti by making it from a porosity calibrated Teflon as taught by Pierce to provide water and corrosion resistance while preventing contaminants from entering.

5. Claims 1, 3, 5-7, 10-12, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB '012 in view of Pierce.

GB '012 discloses a protective cover (bellows) having a deformable structure defining an interior space and closed at both ends. The cover includes a vent means 11 including a vent element 18 that allows air flow across while preventing contaminants and/or water from entering

Art Unit: 3676

(page 1, lines 24-26). The vent means is a separate structure from the cover (bellows) (see claim 5, states the cover 11 is “attachable” to the bellows and therefore is considered separate). As seen in the figures, a portion of the cover is disposed within the vent means 11 to connect them. The vent means and cover (bellows) are further mechanically coupled via clips 16. The vent means is configured as an L-shaped spout having a first portion outwardly perpendicular to the axis, and a second portion parallel to the axis. GB ‘012 does not disclose the vent element is made of TEFLON. Pierce teaches a protective cover having a vent means with a vent element 306. Pierce teaches a vent element that allows airflow there across while preventing contaminants or water from entering the housing (see col. 6, lines 1-26). Pierce teaches making the vent element from a porosity calibrated Teflon material to provide hydrophobic and oleophobic properties. Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the vent element of GB ‘012 by making it from a porosity calibrated Teflon as taught by Pierce to provide water and corrosion resistance while preventing contaminants from entering.

Allowable Subject Matter

6. Claims 21-23 are allowed.

Response to Arguments

7. Applicant's arguments filed 5-24-04 have been fully considered but they are not persuasive and are moot in view of the new grounds for rejection.

Pierce teaches a filter made of porosity calibrated PTFE (TEFLON), which offers water and corrosion resistance while preventing contaminants from entering. The element has a pore size and thus is porosity calibrated.

Art Unit: 3676

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison K. Pickard whose telephone number is 703-305-0882. The examiner can normally be reached on M-F (10-7:30), with alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alison K. Pickard
Primary Examiner
Art Unit 3676

AP